



# House of Representatives

General Assembly

**File No. 802**

*January Session, 2007*

Substitute House Bill No. 7319

*House of Representatives, May 8, 2007*

The Committee on Commerce reported through REP. BERGER of the 73rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING CONNECTICUT JOBS FOR CONNECTICUT PROJECTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 32-1c of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) In addition to any other powers, duties and responsibilities  
4 provided for in this chapter, chapter 131, chapter 579 and section 4-8  
5 and subsection (a) of section 10-409, the commissioner shall have the  
6 following powers, duties and responsibilities: (1) To administer and  
7 direct the operations of the Department of Economic and Community  
8 Development; (2) to report annually to the Governor, as provided in  
9 section 4-60; (3) to conduct and administer the research and planning  
10 functions necessary to carry out the purposes of said chapters and  
11 sections; (4) to encourage and promote the development of industry  
12 and business in the state and to investigate, study and undertake ways  
13 and means of promoting and encouraging the prosperous  
14 development and protection of the legitimate interest and welfare of  
15 Connecticut business, industry and commerce, within and outside the

16 state; (5) to serve, ex officio as a director on the board of Connecticut  
17 Innovations, Incorporated; (6) to serve as a member of the Committee  
18 of Concern for Connecticut Jobs; (7) to promote and encourage the  
19 location and development of new business in the state as well as the  
20 maintenance and expansion of existing business and for that purpose  
21 to cooperate with state and local agencies and individuals both within  
22 and outside the state; (8) to plan and conduct a program of information  
23 and publicity designed to attract tourists, visitors and other interested  
24 persons from outside the state to this state and also to encourage and  
25 coordinate the efforts of other public and private organizations or  
26 groups of citizens to publicize the facilities and attractions of the state  
27 for the same purposes; (9) to advise and cooperate with municipalities,  
28 persons and local planning agencies within the state for the purpose of  
29 promoting coordination between the state and such municipalities as  
30 to plans and development; (10) to provide all necessary staff, services,  
31 accounting and office space and equipment required by the  
32 Connecticut Development Authority subject to the provisions of  
33 section 4b-23, where real estate acquisitions are involved; (11) to aid  
34 minority businesses in their development; (12) to appoint such  
35 assistants, experts, technicians and clerical staff, subject to the  
36 provisions of chapter 67, as are necessary to carry out the purposes of  
37 said chapters and sections; (13) to employ other consultants and  
38 assistants on a contract or other basis for rendering financial, technical  
39 or other assistance and advice, provided in implementing the  
40 Connecticut economic information system the commissioner shall to  
41 the maximum extent feasible contract with private vendors for  
42 software, certain data sets and data updating services; (14) to acquire  
43 or lease facilities located outside the state subject to the provisions of  
44 section 4b-23; (15) to advise and inform municipal officials concerning  
45 economic development and collect and disseminate information  
46 pertaining thereto, including information about federal, state and  
47 private assistance programs and services pertaining thereto; (16) to  
48 inquire into the utilization of state government resources and  
49 coordinate federal and state activities for assistance in and solution of  
50 problems of economic development and to inform and advise the

51 Governor about and propose legislation concerning such problems;  
52 (17) to conduct, encourage and maintain research and studies relating  
53 to industrial and commercial development; (18) to prepare and review  
54 model ordinances and charters relating to these areas; (19) to maintain  
55 an inventory of data and information and act as a clearinghouse and  
56 referral agency for information on state and federal programs and  
57 services relative to the purpose set forth herein. The inventory shall  
58 include information on all federal programs of financial assistance for  
59 defense conversion projects and other projects consistent with a  
60 defense conversion strategy and shall identify businesses which would  
61 be eligible for such assistance and provide notification to such business  
62 of such programs; (20) to conduct, encourage and maintain research  
63 and studies and advise municipal officials about forms of cooperation  
64 between public and private agencies designed to advance economic  
65 development; (21) to promote and assist the formation of municipal  
66 and other agencies appropriate to the purposes of this chapter; (22) to  
67 require notice of the submission of all applications by municipalities  
68 and any agency thereof for federal and state financial assistance for  
69 economic development programs as relate to the purposes of this  
70 chapter; (23) with the approval of the Commissioner of Administrative  
71 Services, to reimburse any employee of the department, including the  
72 commissioner, for reasonable business expenses, including but not  
73 limited to, mileage, travel, lodging, and entertainment of business  
74 prospects and other persons to the extent necessary or advisable to  
75 carry out the purposes of subdivisions (4), (7), (8) and (11) of this  
76 subsection and other provisions of this chapter; (24) to assist in  
77 resolving solid waste management issues; and (25) to develop and  
78 implement the Connecticut economic information system, in  
79 consultation with the Connecticut Economic Information System  
80 Steering Committee established under section 32-6i.

81 (b) The Commissioner of Economic and Community Development  
82 may make available technical and financial assistance and advisory  
83 services to any appropriate agency, authority or commission for  
84 planning and other functions pertinent to economic development  
85 provided any financial assistance to a regional planning agency or a

86 regional council of elected officials shall have the prior approval of the  
87 Secretary of the Office of Policy and Management or his designee.  
88 Financial assistance shall be rendered upon such contractual  
89 arrangements as may be agreed upon by the commissioner and any  
90 such agency, authority or commission in accordance with their  
91 respective needs, and the commissioner may determine the  
92 qualifications of personnel or consultants to be engaged for such  
93 assistance.

94 (c) The Commissioner of Economic and Community Development is  
95 authorized to do all things necessary to apply for, qualify for and  
96 accept any federal funds made available or allotted under any federal  
97 act for planning or any other projects, programs or activities which  
98 may be established by federal law, for any of the purposes, or activities  
99 related thereto, of the Department of Economic and Community  
100 Development and said Commissioner of Economic and Community  
101 Development shall administer any such funds allotted to the  
102 department in accordance with federal law. The commissioner may  
103 enter into contracts with the federal government concerning the use  
104 and repayment of such funds under any such federal act, the  
105 prosecution of the work under any such contract and the establishment  
106 of any disbursement from a separate account in which federal and  
107 state funds estimated to be required for plan preparation or other  
108 eligible activities under such federal act shall be kept. Said account  
109 shall not be a part of the General Fund of the state or any subdivision  
110 of the state.

111 (d) The Commissioner of Economic and Community Development  
112 shall require all recipients of financial assistance awarded by the  
113 Department of Economic and Community Development if the project  
114 for which such award is given (1) involves the construction,  
115 remodeling, refinishing, refurbishing, rehabilitation, alteration or  
116 repair of any building other than affordable housing buildings, (2) has  
117 a total project cost of fifteen million dollars or more, and (3) has  
118 department financial assistance that equals thirty per cent or more of  
119 the total project cost, to comply with all provisions of sections 31-52,

120 31-52a, 31-53, 31-53a, 31-55, 31-55a, 31-57a, 31-57b, 31-57c and 31-57d,  
 121 and any regulations adopted pursuant to said sections, applicable to  
 122 public works projects. For the purposes of this subsection, "financial  
 123 assistance" means grants, loans, loan guarantees or a combination  
 124 thereof awarded pursuant to sections 4-66c and 32-220 to 32-242a,  
 125 inclusive. Any financial assistance made by the department in  
 126 conjunction with the Connecticut Development Authority shall not  
 127 contribute to the thirty per cent threshold.

128 [(d)] (e) The powers and duties enumerated in this section shall be  
 129 in addition to and shall not limit any other powers or duties of the  
 130 Commissioner of Economic and Community Development contained  
 131 in any other law.

132 Sec. 2. Subsection (g) of section 31-53 of the general statutes is  
 133 repealed and the following is substituted in lieu thereof (*Effective*  
 134 *October 1, 2007*):

135 (g) The provisions of this section do not apply where the total cost  
 136 of all work to be performed by all contractors and subcontractors in  
 137 connection with new construction of any public works project is less  
 138 than [four hundred thousand] one million dollars or where the total  
 139 cost of all work to be performed by all contractors and subcontractors  
 140 in connection with any remodeling, refinishing, refurbishing,  
 141 rehabilitation, alteration or repair of any public works project is less  
 142 than [one hundred thousand] one million dollars. The Labor  
 143 Commissioner shall adjust the one million dollar threshold annually to  
 144 reflect the rate of inflation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	32-1c
Sec. 2	<i>October 1, 2007</i>	31-53(g)

**CE**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Economic & Community Development	GF - See Below	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

To the extent that the Department of Economic and Community Development (DECD) will be required to enforce and monitor compliance with labor laws, DECD will require 1 - 2 economic development agents at a  $\frac{3}{4}$  year estimated cost in FY 08 of \$97,500 for salaries plus fringe benefits<sup>1</sup> and an estimated cost of \$130,000 in FY 09 plus fringe benefits. To the extent that the extension of the prevailing wage requirements and state resident hiring preferences reduces the number of applicants that apply for financial assistance through the DECD, under Urban Act and the Manufacturing Assistance Act, there could be a cost savings to the state's financial assistance programs. The exact impact is indeterminate.

#### **The Out Years**

<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sHB 7319*****AN ACT CONCERNING CONNECTICUT JOBS FOR CONNECTICUT PROJECTS.*****SUMMARY:**

This bill requires the economic and community development (DECD) commissioner to require recipients of certain financial assistance awarded for large economic development construction projects to comply with state requirements for prevailing wage, state resident hiring preferences, and certain contractor standards.

The bill also raises the dollar threshold for the prevailing wage law to \$1 million for new construction or renovation or repair projects. Under current law, the threshold is \$400,000 for new construction and \$100,000 for renovation or repair projects. The bill also requires the labor commissioner to adjust the new threshold annually to reflect the rate of inflation (but it does not indicate by what means inflation will be measured).

EFFECTIVE DATE: October 1, 2007

**ASSISTANCE SUBJECT TO THE NEW REQUIREMENTS**

The bill requires the Department of Economic and Community Development (DECD) to impose the new requirements on projects receiving financial assistance that:

1. involve the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any building other than affordable housing;
2. have a total project cost of \$15 million or more; and
3. have DECD financial assistance that equals 30% or more of the



total project cost.

Financial assistance provided by DECD in conjunction with the Connecticut Development Authority does not count toward the 30%.

### **REQUIREMENTS FOR ASSISTANCE RECIPIENTS**

Under the bill, the DECD commissioner must require all recipients of financial assistance which meets the bill's criteria to comply with:

1. the prevailing wage law (see BACKGROUND);
2. state resident hiring preferences for mechanics, laborers, and workers in construction, remodeling, and repair work (see BACKGROUND);
3. the prohibition against contracting with a person or firm found in violation of the National Labor Relations Act (NLRA) or found in contempt by a federal court for failing to correct an NLRA violation three times or more over a five-year period;
4. the prohibition against contracting with a person or firm found to have been cited for three or more willful or serious violations of any occupational safety and health law during the previous three years; and
5. contractor disqualification standards that prohibit a contractor from bidding on a job if the contractor is found or pled guilty to any of a number of crimes related to obtaining public or private contracts or in the performance of such contracts (see BACKGROUND).

### **FINANCIAL ASSISTANCE**

For the bill's purposes, financial assistance means grants, loans, loan guarantees or a combination of these awarded pursuant to a number of statutory programs, including (1) DECD's part of the Urban Action bond program, (2) the Manufacturing Assistance Act, (3) the defense diversification program, (4) the Economic Assistance Bond Fund, (5) the Economic Assistance Revolving Loan Fund, and (6) the flexible

manufacturing network program.

## **BACKGROUND**

### ***Prevailing Wage Law***

The state prevailing wage law requires contractors to pay the prevailing hourly wage, as determined by the state Labor Department, to all mechanics, laborers, or workers on state and municipal construction jobs. Punishments for violating the law include fines and suspension from bidding on future public projects (CGS §§ 31-53, 31-53a, & 31-54).

### ***State Resident Hiring Preferences***

By law, contractors in the construction, remodeling, or repair of any public building must give preference to state residents when hiring mechanics, laborers, and workers. If sufficient numbers of state residents cannot be found, preference is given to U.S. citizens over other applicants. Contractors can be fined up to \$200 a week for willful violations of this law (CGS §§ 31-52 & 31-52a). The Labor Department indicates that it has received longstanding advice that the resident hiring preference may be vulnerable to a court challenge. The preference may violate the Commerce and Privileges and Immunities clauses of the U.S. Constitution.

### ***Contractor Disqualification Standards***

By law, a contractor can be disqualified from bidding on a job if the contractor is found or pled guilty or pled nolo contendere to:

1. criminal offenses related to obtaining, or attempting to obtain, public or private contracts or subcontracts;
2. any state or federal violation for embezzlement, theft, forgery, bribery, falsification or destruction of documents, or other offense indicating a lack of business integrity; and
3. any state or federal antitrust, collusion, or conspiracy violation arising out of the submission of bids for public or private contracts.

A contractor can also be disqualified for a willful (1) violation of a statutory or regulatory requirement for a public contract or agreement or (2) failure to perform in accordance with the terms of a public contract or agreement (CGS §§ 31-57c & 31-57d).

***Legislative History***

The House referred the bill (File 460) to the Commerce Committee, which voted out a substitute. The new bill (1) limits the applicability of the prevailing wage law and other requirements to DECD financial assistance only and at a certain thresholds (i.e., at or above \$15 million total cost, etc.) and (2) adds the language raising the prevailing wage project threshold to \$1 million.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference  
Yea 9 Nay 1 (03/13/2007)

Government Administration and Elections Committee

Joint Favorable  
Yea 9 Nay 4 (03/28/2007)

Commerce Committee

Joint Favorable Substitute  
Yea 14 Nay 4 (04/26/2007)